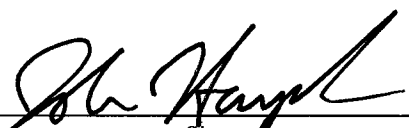


| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number: 07977-0301001 |
|---|--|---------------------------------|
| I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450. _____ Date of Deposit _____ Signature _____ Typed or Printed Name of Person Signing Certificate | Application Number 10/072,496 | Filed February 5, 2002 |
| | First Named Inventor Shunpei Yamazaki, et al. | |
| | Art Unit 2617 | Examiner Erika A. Gary |
| | | |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a Notice of Appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record <u>37640</u> (Reg. No.)</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> | | |
| <input checked="" type="checkbox"/> Total of 4 pages are submitted. | | |



Signature

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Typed or printed name

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October 8, 2008
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|------------|----------------------------|-----------|-----------------|
| Applicant | : Shunpei Yamazaki, et al. | Art Unit | : 2617 |
| Serial No. | : 10/072,496 | Examiner | : Erika A. Gary |
| Filed | : February 5, 2002 | Conf. No. | : 1207 |
| Title | : ELECTRONIC DEVICES | | |

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Commissioner for Patents
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Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to United States Patent and Trademark Office OG Notices: 12 July 2005 - New Pre-Appeal Brief Conference Pilot Program, a request for a review of identified matters on appeal is hereby submitted with the Notice of Appeal. Review of these identified matters by a panel of examiners is requested because the rejections of record are clearly not proper and are without basis, in view of a clear legal or factual deficiency in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

Claims 1, 2, 4-26 and 97-108 are currently pending with claims 1, 15 and 21 being independent. Claims 97-99 have been rejected under section 112, second paragraph. Claims 1, 2, 4-26 and 97-102 have been rejected as unpatentable over Edwards (U.S. Patent Publication Number 2002-0077160) in view of Suso (U.S. Patent Number 6,466,202).

Applicant specifically asks the panel to review the issues highlighted below.

1. One of ordinary skill in the art would not have modified Edwards in view of Suso because doing so would have frustrated the purpose of Edwards.

Independent claim 1 is directed to an electronic device that includes a first housing coupled to a second housing by a hinge such that a first center line of the first housing and a second center line of the second housing are in parallel with each other only in a state where the first housing and the second housing are folded via the hinge. The first center line and the second center line are inclined relative to each other in a state where the first housing and the second housing are opened via the hinge. The second housing includes a transmitting unit while the first housing includes a receiving unit. The receiving unit is provided at a first end of the first housing opposite a second end of the first housing at which the hinge is located.

Independent claims 15 and 21 recite electronic devices having similar features. Rather than reciting features of the center lines of the housings, claim 15 recites that each of the first and second housings has a pair of lines opposing each other, that one of the pair of lines of the first housing has a shorter length than the other one of the pair of lines of the first housing, and that one of the pair of lines of the second housing has a shorter length than the other one of the pair of lines of the second housing, and claim 21 recites that each of the first and second housings has a trapezoid shape.

Edwards describes a satellite phone having a cover (which is said to correspond to the first housing) coupled to a body (which is said to correspond to the second housing) by a hinge such that the center lines of the cover and the body are arranged in the manner recited in claim 1. However, Edwards does not describe or suggest putting a receiving unit in the cover at all, let alone at a first end opposite a second end at which the hinge is located.

Recognizing this failure of Edwards, the rejection argues that it would have been obvious to modify Edwards in view of Suso, which shows transmitting and receiving units arranged in first and second housings. Applicants disagree because doing so would have frustrated the purpose of the arrangement described by Edwards. In particular, Edwards states in paragraph [0020] that “the antenna of certain handheld devices, such as satellite phones, must extend above the user’s head” and that the “cover 24 operates as an extender for antenna 21” and “extends beyond the user’s ear so that it provides the highest possible antenna base without requiring an antenna extension or the like.” Thus, Edwards indicates that it is important to maximize the

distance that the antenna extends from the components with which it operates, which would weigh against moving components to the cover of Edwards. Moreover, in order to maintain a consistent distance between the microphone and the speaker (which the rejection equates with the transmitting and receiving units), the size of the device of Edwards would need to be reduced if the microphone or speaker were moved to the cover, and this, in turn, would lower the antenna base, which is contrary to the purpose of Edwards.

In addition, even if one were to put a receiving unit in the cover of Edwards, given Edwards' stated purpose to have the cover operate as an extender for the antenna, nothing in Edwards or Suso would have led to the placement of the receiving unit at a first end of the cover opposite a second end at which the hinge is located. Such placement would result in the first end of the cover being at the user's ear, and the second end of the cover being between the user's ear and the user's mouth, such that the cover could in no way serve as an extender for the antenna.

Accordingly, for at least this reason, the rejection should be withdrawn.

2. One of ordinary skill in the art would not have had any reason to modify Suso in view of Edwards in a way that results in the claimed subject matter.

During the interview of October 1, the Examiner indicated possible agreement that one of ordinary skill in the art would not have modified Edwards in view of Suso, but then argued that the rejection could be changed so as to modify Suso in view of Edwards in order to arrive at the claimed subject matter. Applicants disagree that such a combination would be proper.

In particular, as discussed above, the purpose of the configuration described by Edwards is to provide a cover that "extends beyond the user's ear so that it provides the highest possible antenna base without requiring an antenna extension or the like." (See Edwards at paragraph [0024].) Thus, to the extent that one of ordinary skill in the art would have modified Suso in view of Edwards, they would have, at best, done so by placing the speaker near the hinge such that the cover would extend beyond the user's ear and provide a high antenna base. Accordingly, the resulting combination would not have had a receiving unit provided at a first end of the first housing opposite a second end of the first housing at which the hinge is located, as recited in each of the independent claims.

For at least these reasons, the rejection should be withdrawn.

Applicant : Shunpei Yamazaki, et al.
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Attorney's Docket No.: 07977-0301001 / US5497

No fee is believed to be due. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 10/2/08



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